

**The Commonwealth of Massachusetts
Commission Against Discrimination
One Ashburton Place, Boston, MA 02108
Phone: (617) 994-6000 Fax: (617) 994-6024**

12/4/2002

Linda Murphy
H & R Block
Linda Murphy
31 Schoosett Street
Pembroke, MA 02359

RE: Adrian McCray vs. H & R Block, Linda Murphy
MCAD Docket Number: 02BEM04017
EEOC/HUD Number: 16CA300505

Dear Respondent:

Please be advised that the Massachusetts Commission Against Discrimination (MCAD) has received the above referenced complaint of discrimination which alleges that you have committed an act of discrimination. A copy of that complaint is enclosed.

State law requires the Commission to impartially review the allegations in that complaint. The Commission has assigned one of its staff, to investigate the complaint. This MCAD investigator will keep the parties informed of developments arising from that investigation.

State law requires that you submit a formal written answer to the complaint in the form of a Position Statement. This written answer should be submitted to MCAD Investigator within twenty-one (21) days of receipt of this notification. In addition, the Position Statement must be notarized. A copy must also be forwarded to the Complainant at the address listed on the enclosed complaint. Failure to file an answer or Motion for a More Definite Statement within the prescribe time may result in sanctions being imposed in accordance with 804 CMR 1.16. These sanctions may include but are not limited to:

- a. allegations in the complaint being taken as established for the purposes of the case in accordance with the claims of the Complainant;
- b. a waiver by Respondent of the right to have the Commission conduct further investigation, determine whether there is probable cause and/or make conciliation efforts;
- c. your being barred from introducing any and all evidence at the public hearing;
- d. your being barred from introducing designated matters into evidence at the public hearing;
- e. your being barred from presenting any and all defenses at the public hearing; and,
- f. your being barred from opposing designated claims or supporting designated defenses at the public hearing.

Please note that you must include in the Position Statement one of the following statements:

I am (or Respondent is) represented by an attorney in this matter.

-OR-

I am (or Respondent is) not represented by an attorney in this matter.

Failure to submit an accurate statement may result in adverse action being taken against you as the Respondent. Please note that if your representational situation changes, you must notify the Commission immediately.

In order to reduce the time necessary to investigate and resolve complaints of discrimination, the MCAD schedules an Investigative Conference with the parties shortly after the complaint is filed. Information about that Conference is included with this notice.

An Investigative Conference regarding the above complaint will be held at the Commission's Offices, One Ashburton Place, 6th floor, Boston, MA, at 10:30 a.m. on January 29, 2003. You are required to attend this Conference.

One important purpose of this Conference will be to determine whether the parties are willing to consider a rapid, informal and voluntary resolution of this dispute. The Commission encourages such resolutions as an alternative to the often lengthy and expensive litigation process.

If you have any questions pertaining to the Investigative Conference, please contact Stacy Malone at (617) 994-6090.

Sincerely,

Stacy A. Malone
Investigator

Cc:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

H & R Block
Catherine Watson
4400 Main Street
Kansas City, MO 64101

Linda Murphy
H & R Block
Linda Murphy
31 Schoosett Street
Pembroke, MA 02359

Person Filing Charge: Adrian McCray
This Person (Check One): ☐ Claims to be aggrieved
☐ Is filing on behalf of
Date of Alleged Violation: 11/25/02
Place of Alleged Violation: Pembroke, office
EEOC Charge Number: 16CA300505
MCAD Docket Number: 02BEM04017

NOTICE OF CHARGE OF DISCRIMINATION WHERE AN FEP AGENCY WILL INITIALLY PROCESS (See Attached Information Sheet For Additional Information)

You are hereby notified that a charge of employment discrimination under
☐ Title VII of the Civil Rights Act of 1964
☐ The Age Discrimination in Employment Act of 1967 (ADEA)
☐ The Americans Disabilities Act (ADA)

Has been received by

- ☐ The EEOC and sent for initial processing to MCAD
(FEP Agency)
☐ The Mass. Commission Against Discrimination
(FEP) Agency and sent to the EEOC for dual filing purposes.

While the EEOC has jurisdiction (upon the expiration of any deferral requirements if this is a Title VII or ADA Charge) to investigate this charge, EEOC may refrain from beginning an investigation and await the issuance of the Agency's final findings and orders. These final findings and orders will be given weight by EEOC in making its own determination as to whether or not reasonable cause exists to believe that the allegations made in the charge are true.

You are therefore encouraged to cooperate fully with the Agency. All facts and evidence provided by you to the Agency in the course of its proceedings will be considered by the Commission when it reviews the Agency's final findings and orders. In many instances the Commission will take no further action, thereby avoiding the necessity of an investigation by both the Agency and the Commission. This likelihood is increased by your active cooperation with the Agency.

- ☒ As a party to the charge, you may request that EEOC review the final decision and order of the above named Agency. For such a request to be honored, you must notify the Commission in writing within 15 days of your receipt of the Agency's issuing a final finding and order. If the agency terminates its proceedings without issuing a final finding and order, you will be contacted further by the Commission. Regardless of whether the Agency or the Commission processes the charge, the Recordkeeping and Non-Retaliation provisions of Title VII and the ADEA as explained on the second page of this form apply.

For further correspondence on this matter, please use the charge number(s) shown.

- ☐ An Equal Pay Act Investigation (29 U.S.C 206(d)) will be conducted by the Commission concurrently with the Agency's investigation of the charge.
☒ Enclosure: Copy of the Charge

Basis of Discrimination

<input type="checkbox"/> Race	<input type="checkbox"/> Color	<input type="checkbox"/> Sex	<input type="checkbox"/> Religion	<input type="checkbox"/> National Origin
<input type="checkbox"/> Age	<input type="checkbox"/> Disability	<input type="checkbox"/> Retaliation	<input type="checkbox"/> Other	

Circumstances of alleged violation:

SEE ENCLOSED COPY OF THE CHARGE OF DISCRIMINATION (or EEOC FORM 5)

Date	Type Name/Title of Authorized EEOC Official	Signature
12/4/2002	Robert L. Sanders, Director	

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Phone: (617) 994-6000 Fax: (617) 994-6024**

MCAD DOCKET NUMBER: 02BEM04017
FILING DATE: 12/04/02

EEOC/HUD CHARGE NUMBER: 16CA300505
VIOLATION DATE: 11/25/02

Name of Aggrieved Person or Organization:

Adrian McCray
75 Hathaway Street
New Bedford, MA 02746
Primary Phone: (508)996-1293 ext. _____

Named is the employer, labor organization, employment agency, or state/local government agency who discriminated against me:

H & R Block
Catherine Watson
4400 Main Street
Kansas City, MO 64101
Primary Phone: (800)269-9220 ext. _____

Linda Murphy
H & R Block
Linda Murphy
31 Schoosett Street
Pembroke, MA 02359
Primary Phone: (781)826-0111 ext. _____

No. of Employees: 25+

Work Location: office

Cause of Discrimination based on:
Race, Color, Black (Non-Hispanic).

The particulars are:

I, Adrian McCray, the Complainant believe that I was discriminated against by H & R Block, Linda Murphy, on the basis of Race, Color. This is in violation of M.G.L. 151B Section 4 Paragraph 1 and Title VII.

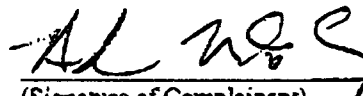
The Complainant alleges that he has been discriminated against because of his race and color (Black). The Complainant alleges that his employment with the Respondent H&R Block in August 2001. The Complainant alleges that his office consists of 15 employees and he is the only African-American employee. The Complainant alleges that he has been subjected to different terms and conditions of employment as compared to his White co-workers. The Complainant alleges that his activity in the office is tracked, whereas, no one else's activity is tracked. The Complainant alleges that this is because of his race and color.

The Complainant alleges that he was injured on November 17, 2002 in a car accident. The Complainant alleges that he went to work on Monday, November 18, 2002, but had to leave in order to go to the hospital. The Complainant alleges that he went out on FMLA on November 18, 2002. The Complainant alleges that while he was out on FMLA he received numerous emails from the office stating different terms

and conditions of employment than his White co-workers. The Complainant alleges that all of the emails sent to him during his leave stating different terms and conditions of employment were from Linda Murphy, Respondent's Vice President and Managing Director for the region. The Complaint alleges that he received an email from Murphy stating he could no longer give work to be done to the office assistant, who does work for everyone in the office. The Complainant alleges that Murphy emailed him that he could not take time around the holidays although she had approved it in April 2002. The Complainant alleges that during tax season he would not be allowed to work from home to accommodate childcare, although other managers (White) were not required to work Saturdays during tax season at all. The Complainant alleges that on November 25, 2002, he received an email from Murphy that stated he could no longer work the hours 7:30 a.m. to 4:00 p.m. on Fridays to accommodate picking up his son and that he had to work 8:30 a.m. to 5:30 p.m., although the other employees are allowed to work any hours they choose. The Complainant alleges that he even received emails from Murphy when he was out on leave to the effect that the condition of his office was unacceptable. The Complainant alleges that these terms and conditions of employment were due to his race and color.

The Complainant alleges that the Respondent has subjected him to different terms and conditions of employment, thus resulting in a hostile work environment. The Complainant alleges that Murphy's harassment has made doing his job difficult. The Complainant alleges that he has been harassed and subjected to different terms and conditions of employment due to his race and color.

I swear or affirm that I have read this complaint and that it is true to the best of my knowledge, information and belief.


(Signature of Complainant)

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS DAY of 12/4/2002.

NOTARY PUBLIC: 

SIGNATURE NOTARY PUBLIC: 
MY COMMISSION EXPIRES: 10/30/09

QUESTIONS AND ANSWERS

1. What do you mean by "Mediation is confidential?"

Answer: It means that whatever you say in mediation - whether it is when you and the Mediator are talking alone, or when you and the Complainant/Respondent are talking with the Mediator - will not be repeated outside of the mediation process. It also means that the Mediator will be willing to keep private what you say in your separate meeting alone with him/her.

2. What if I do not want to settle in Mediation?

Answer: That is your choice. The Mediator will not tell you what to do. If you and the Complainant/Respondent are unable to come to an agreement in mediation, you will have the option of pursuing your case through the complaint process.

3. What if the other party does not agree to mediate?

Answer: The local mediation Team Leader will spend as much time as possible talking with the other party about the advantages of trying mediation.

4. What are the advantages of Mediation?

Answer: Mediation gives the parties a chance to resolve the issues themselves. Most people are more satisfied with resolutions that they develop than with something that is decided for them. You also can resolve your claim in mediation in much less time than it would take to get a decision in the regular process. There is no charge for Mediation.

5. What will I have to do to get ready for Mediation?

Answer: The process will work better if you are prepared to tell the Mediator about two things: (1) What it is that you understand the conflict to be about; and (2) What you would like as a settlement of the case.

6. Where will the Mediation take place?

Answer: The Mediations are conducted at the Boston office of the MCAD located at 1 Ashburton Place, on the 6th Floor.

7. Who are the Mediators?

Answer: They are Mediators affiliated with the MCAD either by way of employment or volunteer basis. They have all been trained to Mediate and are experienced in mediating employment disputes. They have participated in special training, which is focused on mediating complaints of discrimination.

8. I cannot decide if I want to participate in Mediation or not. Do I have to decide now?

Answer: No, you do not have to decide this minute. Prior to commencing mediation activities, however, you will have to sign an agreement indicating your desire to have your complaint mediated. The agreement clearly states that you are entering this process voluntarily and that you understand that you may withdraw from the mediation process at any time prior to reaching a settlement.

9. What if both parties come to an agreement in Mediation and one of the parties does not follow through on it?

Answer: An agreement that the parties reach and both sign will have the same impact as any settlement that the MCAD would make. It is enforceable in court.